

1:11cv279

Defendant.

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documents, the party seeking discovery may move for an order compelling an answer to the interrogatories or the production of documents responsive to the request. Fed. R. Civ. P. 37(a)(3)(B). “Over the course of more than four decades, district judges and magistrate judges in the Fourth Circuit . . . have repeatedly ruled that the party or person resisting discovery, not the party moving to compel discovery, bears the burden of persuasion.” Kinetic Concepts, Inc. v. ConvaTec Inc., 268 F.R.D. 226, 243 (M.D.N.C. 2010) (collecting cases); Mainstreet Collection, Inc. v. Kirkland’s, Inc., 270 F.R.D 238, 241 (E.D.N.C. 2010); Billips v. Benco Steel, Inc., No. 5:10cv95, 2011 WL 4005933 (W.D.N.C. Sept. 8, 2011) (Keesler, Mag. J.).

Plaintiff has not responded to Defendant’s Interrogatories or Request for Production of Documents as required by the Federal Rules. If Plaintiff wishes to maintain this action against Defendant, he must participate in the discovery process. Accordingly, the Court **GRANTS** the motion [# 12] and **DIRECTS** Plaintiff to respond to Defendant’s Interrogatories and produce all responsive documents to Defendant’s Request for Production of Documents within twenty (20) days of the entry of this Order. The failure to comply with the Court’s Order may result in the Court recommending that the District Court dismiss this action for failure to prosecute.

II. Conclusion

The Court **GRANTS** Plaintiff's Motion to Compel [# 12]. The Court **DIRECTS** Plaintiff to respond to Defendant's Interrogatories and produce all responsive documents to Defendant's Request for Production of Documents within twenty (20) days of the entry of this Order. The failure to comply with the Court's Order may result in the Court recommending that the District Court dismiss this action for failure to prosecute. Finally, the Court finds that an award of costs is not warranted at this time.

Signed: August 8, 2012

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Dennis L. Howell
United States Magistrate Judge

